

COMMITTEE OF BAR EXAMINERS

OPEN SESSION AGENDA ITEM

AGENDA ITEM: O-405

DATE: October 9, 2013

TO: Subcommittee on Educational Standards

FROM: George Leal, Director, Educational Standards

SUBJECT: Branch Campuses

BACKGROUND

Both the *Accredited Law School Rules* and the *Unaccredited Law School Rules* refer to a proposed major change when either type of law school seeks to open a new “branch.” For purposes of a California-Accredited Law School, Rule 4.165 of the *Accredited Law School Rules* provides that: “The following are major changes: . . . (B) changing the location of the school or the location of a branch, or opening a new branch.” For registered, unaccredited law schools, Rule 4.246 of the *Unaccredited Law School Rules* provides that: “The following are major changes: . . . (B) changing the location of the law school’s administrative office or the location of a branch, or opening a new branch.”

Under each of these rules, whenever either a California-Accredited Law School (CALS) or a registered, unaccredited law school wishes to open and operate a new branch campus, a sufficiently-documented request for the prior approval of the Committee of Bar Examiners (Committee) is needed before any new branch may be opened. Over the years, the Committee has considered and granted its approval for both an entirely new branch and/or the relocation of an already-approved branch campus.

DISCUSSION

Over time, it has come to the attention of the Committee that neither the *Accredited Law School Rules* nor the *Unaccredited Law School Rules* provide an adequate nor accurate description of what constitutes a new or existing “branch” of either a CALS or an unaccredited law school. Further confusing the issue of what constitutes a branch campus is whether or when the Committee should grant its approval of the opening or location of a proposed branch campus that would constitute an entirely new law school instead of merely offering a portion of the existing school’s program of legal education.

Historically, the Committee has provided its approval of a branch where an existing law school (either a CALS or unaccredited) seeks to enroll a limited number of students at a location some distance from its primary campus. Generally, if the law school demonstrates that its proposed branch will support and serve the needs of its students and also demonstrates that its classroom, library, faculty and curriculum at the proposed

branch will be compliant with all applicable rules and guidelines, Committee approval has been granted.

The Committee's past approval of branch campuses mirrors the definition used by the American Bar Association for what it refers to as a "satellite campus." As provided by ABA Standard 106(15): "Satellite campus' means a separate location . . . which is not within reasonable proximity to the main law school and at which a student could take the equivalent of 16 or more semester credit hours toward the law school's J.D. degree but which does not constitute a Branch Campus." Thus, as noted in the ABA's Interpretation of its Rule 105-3: "The establishment of a Satellite campus at which a law school offer no more than the first year of is full-time program, or the first three semesters (or equivalent) of its part-time program,"

The ABA accreditation standards also define what it considers to be a branch campus. ABA Standard 106(4): "Branch campus' means a separate location at which the law school offers sufficient courses that a student could earn at the separate location all of the credit hours that the law school requires for the J.D. degree." As to any such branch campus, however, the ABA expressly provides (at Interpretation 105-2) that the "establishment of a Branch campus of an approved law school constitutes the creation of a different law school." As such, each branch campus of an ABA-approved law school must apply for and be found worthy of provisional approval.

Consistent with how the ABA's distinguishes between what it refers to as a "satellite campus" and a "branch campus", the Committee may also wish to adopt a new rule that expressly provides that when an existing law school seeks to establish an entirely new "branch" campus, one that is to operate at a considerable distance from its primary campus and thus virtually independent from that campus, the new campus should be considered a new law school subject to all applicable requirements associated with either it becoming registered, if the requesting school is unaccredited, or provisionally accredited if it is to be associated with law school that is already California accredited.

A discussion to define and more better describe branch campuses and, perhaps as has the ABA has, a discussion whether to establish and distinguish between branch and satellite campuses, seems appropriate at this time.

RECOMMENDATION

After a preliminary discussion, the Subcommittee may wish to refer this matter to the Rules Advisory Committee for consideration and recommendation.